



MISSOURI DEPARTMENT OF MENTAL HEALTH



DEPARTMENT
OPERATING
REGULATION
NUMBER

DOR
8.010

KEITH SCHAFER, DEPARTMENT DIRECTOR

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|--|---------------------------------|---|-----------------------|-----------------------|
| CHAPTER Regulatory Compliance | SUBCHAPTER HIPAA Regulations | EFFECTIVE DATE 7/1/09 | NUMBER OF PAGES 5 | PAGE NUMBER 1 of 5 |
| SUBJECT Policy: Amendment of Protected Health Information | | AUTHORITY Section 630.050; 45 CFR Sec. 164.526 | History See Below | |
| PERSON RESPONSIBLE General Counsel | | | Sunset Date 7/1/12 | |

PURPOSE: It is the policy of the Department of Mental Health to ensure that the records of individually identifiable protected health information are accurate and complete. It is also the policy of the Department to recognize the rights of consumers to amend protected health information pertaining to them in a designated record set, if the consumer believes that information is incomplete or incorrect, as referenced in 45 CFR Section 164.526. The Department of Mental Health further recognizes that amendments to protected health information may be limited or restricted as defined in this policy, in the Notice of Privacy Practices and as allowed by law. In cases where the consumer has been civilly adjudicated as incapacitated (and therefore appointed a guardian) or is a minor, the parent (if a minor), or the legal guardian or personal representative may request the amendment.

APPLICATION: The Department of Mental Health, its facilities, and workforce

(1) CONTENTS :

- (A) Definitions
- (B) Request for Amendment to Protected Health Information
- (C) Denial of Request for Amendment to Protected Health Information
- (D) Statement of Disagreement of Denial
- (E) Attachments

(2) DEFINITIONS:

(A) Consumer: Any individual who has received or is receiving services from a Department of Mental Health state operated facility.

(B) Designated record set: A group of any records under the control of a covered entity from which Protected Health Information is retrieved by the name of the individual or by identifying number.

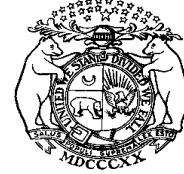
(C) Personal Representative: Person with a court order appointing them as guardian or with a valid Power of Attorney signed by the consumer specifying the authority to review and make decisions regarding medical, psychiatric, treatment or habilitation concerns. In the case of juveniles who have consented to treatment for alcohol and drug abuse issues as allowed under Section 431.061, RSMo, they are their own personal representatives.

(D) Protected Health Information (PHI): Individually identifiable health Information that is transmitted or maintained in any form or medium, by a covered entity, health plan or clearinghouse as defined under the Health Insurance Portability and Accountability Act (HIPAA), 45 CFR Part 160 and 164.

(E) Individually Identifiable Health Information: Any information, including demographic information, collected from an individual that -



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1. Is created or received by a healthcare provider, health plan, employer, or healthcare clearinghouse; and

2. Related to the past, present, or future physical or mental health or condition of an individual; the provision of healthcare to an individual; or the past, present, or future payment for the provision of healthcare to an individual, and

a. Identifies the individual, or

b. There is reasonable basis to believe that the information can be used to identify the individual.

(F) Disclosure of PHI Summary: An accounting of disclosures of PHI (in paper or electronic format) containing: date of disclosure; name and address of the organization or person who received the PHI, a brief description of the information disclosed; purpose for which the PHI was disclosed.

(3) REQUEST FOR AMENDMENT TO PROTECTED HEALTH INFORMATION:

(A) A consumer, parent of a minor, and personal representative or legal guardian as relevant to their representation, who believe information in their health records is incomplete or incorrect may request an amendment or correction of the information as outlined below:

1. For minor discrepancies, i.e. typos, misspelled name, wrong date, etc., the consumer may approach the author of the entry, point out the error, and ask the author to correct it.

a. If the entry author agrees, the entry can be corrected according to best documentation practices by drawing a single line through the error, adding a note explaining the error (such as "wrong date" or "typo"), date and initial it, and make the correction as close as possible to the original entry in the record.

b. Any information added to a Person Centered Plan, or ITP, in the regular course of business is not considered an amendment. An example would be when a consumer provides the name of a new private physician whom he/she sees in the community.

(B) All other requests for amendment to PHI shall be in writing and provide a reason to support the amendment. Specifically, any request should be supported by documentation of any incorrect information or incomplete information.

1. The "Request for Amendment to Protected Health Information" form shall be provided to facilitate the request. Facility personnel may assist in initiating the process requesting amendment to PHI and a copy shall be provided to the consumer.

2. All requests for amendment of PHI shall be forwarded to the facility Privacy Officer or designee who shall route the original request to the author of the PHI or that individual's discipline supervisor.

3. If the author chooses to add a comment to the request form, a second copy of the form shall be given to the consumer with the author's comments.

4. This request shall be processed in a timely consistent manner according to established timeframes but not more than 60 days after receipt of the request.



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5. If the request for amendment cannot be processed within the 60 days, the timeframe may be extended no more than an additional 30 days with notification in writing to the individual outlining reasons for the delay and the date the request will be concluded.

6. If a consumer with a guardian requests an amendment, a letter shall be sent to the guardian stating that the consumer is requesting an amendment, and further requesting that the guardian complete the Request for Amendment form.

(C) If the request is granted, the facility shall:

1. Insert the amendment or provide a link to the amendment at the site of the information that is the subject of the request for amendment, and then document the change in the same section of the record as the original information.

2. Inform the consumer that the amendment is accepted.

3. Obtain the authorization of the consumer to notify all relevant persons or entities with whom the amendment needs to be shared.

4. Within a reasonable time frame, make reasonable efforts to provide the amendment to the persons identified by the consumer, and any persons, including business associates, that the covered entity knows has been provided the PHI that is the subject of the amendment and who may have relied on or could foreseeably rely on the information to the detriment of the consumer. A reasonable time frame is defined as attempts to complete this process within 60 days of the date of the amendment to the record.

5. If the amendment affects a service for which billing or a charge has already been submitted, then the billing shall be reviewed to see if it should be amended or changed as well to reflect the new information.

(4) DENIAL OF REQUEST FOR AMENDMENT OF PROTECTED HEALTH INFORMATION:

(A) A facility may deny the request for amendment to PHI if the health information that is the subject of the request:

1. The information was not created by the facility. However, if the consumer can provide reasonable proof that the person or entity that created the information is no longer available to make the amendment, and the request is not denied on other grounds, this facility shall amend the information .

2. The information is not part of the medical information kept by or for the facility.

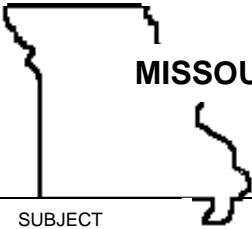
3. The information is not part of the information that the consumer would be permitted to inspect and copy (for specifics on consumer access to PHI, please see DOR 8.030).

4. The information is accurate and complete.

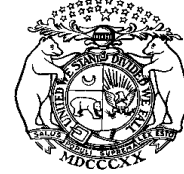
(B) If the facility denies the requested amendment, it shall provide the consumer with a timely, written denial, written in plain language that contains:

1. The basis for the denial;

2. The consumer's right to submit a written statement disagreeing with the denial and how the consumer may file such a statement;



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3. The name, title, address, and telephone number of the person to whom a statement of disagreement should be addressed;

4. The steps to file a complaint with the Secretary of the U.S. Department of Health and Human Services;

5. A statement that if the consumer does not submit a statement of disagreement, the consumer may request that the facility provides the Request for Amendment and the denial with any future disclosures of PHI. (See section (5) for further information).

6. A copy shall also be provided to the guardian, if applicable; to parent(s), if applicable; or to DFS if that agency has legal and physical custody of the juvenile.

(5) STATEMENT OF DISAGREEMENT OF DENIAL:

(A) Consumers shall be permitted to submit to the facility a written statement disagreeing with the denial of all or part of a requested amendment and the basis for the disagreement. This statement of disagreement shall be limited to one page.

(B) The statement of disagreement shall be submitted in writing to the Superintendent/Director or Officer of Quality Management of the facility.

(C) The facility may prepare a written rebuttal to the statement of disagreement and must provide the consumer with a copy of the rebuttal.

(D) The facility shall identify the record of PHI that is the subject of the disputed amendment and append or link the request for an amendment, the denial of the request, the individual's statement of disagreement, if any, and the facility rebuttal statement if any.

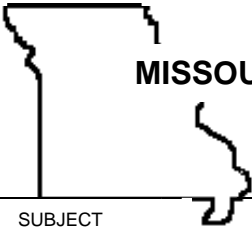
1. If the consumer has submitted a statement of disagreement, the facility shall include the documents in 5(D), or an accurate summary of the information, with any subsequent disclosure of the PHI to which the disagreement relates.

2. If the consumer has not submitted a written statement of disagreement, the facility shall include the consumer's request for amendment and its denial, or an accurate summary of the information, with any subsequent disclosure of PHI only if the consumer has requested it.

(E) If the facility receives information from another facility of an amendment of a consumer's PHI, the PHI from that sending facility shall be amended in written or electronic form.

(6) REVIEW PROCESS: The Central Office Privacy Officer shall collect information from the facility Privacy Officers during the month of April each year to monitor compliance with this DOR.

(7) SANCTIONS: Failure of staff to comply or assure compliance with the DOR may result in disciplinary action, including dismissal.



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(8) LOCAL POLICIES: There shall be no facility policies pertaining to this topic. The Department Operating Regulation shall control.

(9) Attachment: Form to Request Amendment to Protected Health Information.

HISTORY: Original DOR effective January 1, 2003. Final DOR effective June 1, 2003. Amendment effective July 1, 2006. On July 1, 2009, the sunset date was extended to July 1, 2012.



STATE OF MISSOURI
DEPARTMENT OF MENTAL HEALTH REQUEST FOR AMENDMENT FORM

Consumer Name and SSN:

Statewide ID/Local Facility ID

Consumer Address

Date of Entry to be amended:

Type of Entry to be Amended:

Please explain how the entry is incorrect or incomplete.

What should the entry say to be more accurate or complete?

If you believe the information is incorrect, please provide any verification or evidence to document that the information is incorrect. (Please attach any verification).

If granted, would you like this amendment sent to anyone to whom we may have disclosed the information in the past? ___Yes ___No If so, please specify the name and address of the organization or individual:

Signature of Consumer or Legal Representative

Date

Missouri Department of Mental Health Use Only

Date Received

Amendment has been:

accepted

denied

☐

If denied check reason for denial:

If denied, written denial provided to consumer on _____(date)

☐ PHI was not created
by this facility

☐ PHI is not part of
patient's designated record
set

☐ PHI is not available to the
patient for inspection as required
by federal law

☐ PHI is accurate
and complete

Comments of Health Care Provider:

IF DENIED:

If the request is denied, you may file a complaint with Region VII, Office for Civil Rights, U.S. Department of Health and Human Services by calling 816.426.7278, or writing them at 601 East 12th Street, Room 248, Kansas City, MO 64106. You may also fax to Region VII, Office of Civil Rights at 816.426.3686, or call TTY at 816.426.7065. You may also file a complaint with the Missouri Department of Mental Health by contacting this facility's Privacy Officer.

Name and Title of Staff Member processing request

Signature of Health Care Provider (Author of the Entry, or equivalent)

Date